

## Message Text

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INFO OCT-01 ARA-14 ISO-00 EB-08 SAB-02 H-02 COME-00  
OPIC-06 /036 R

DRAFTED BY L/ARA:F.ARMSTRONG:JV  
APPROVED BY ARA/PAN - J. HAAHR  
ARA/PAN - D. WAGNER  
EB/IFD/OIA - B. BLACK  
-----094808 230116Z /15

P 222350Z MAR 78  
FM SECSTATE WASHDC  
TO AMEMBASSY PANAMA PRIORITY

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E.O. 11652: N/A

TAGS: PN, EINV, BDIS

SUBJECT: BOSTON PANAMA CASE

REF: HAAHR/GONZALEZ TELECON, 3/22/78

1. IN ATTEMPTING TO REVIEW THE MERITS OF BOSTON PANAMA'S CASE AGAINST THE GOP FOR PURPOSES OF DETERMINING THE APPLICABILITY OF THE HICKENLOOPER AMENDMENT, THE DEPARTMENT HAS ENCOUNTERED SERIOUS GAPS IN ITS PRESENT INFORMATION WHICH PRECLUDE A DETERMINATION AT THIS TIME. BECAUSE OF INCREASING CONGRESSIONAL PRESSURE ON THE CASE, WE ARE ANXIOUS TO CONTINUE MOVING AHEAD TOWARD A DECISION ON STATUTORY SANCTIONS. THE GENERAL AREAS IN WHICH WE NEED INFORMATION ARE OUTLINED BELOW. YOU WILL NOTE THAT THEY RAISE SUBSTANTIVE QUESTIONS OF PANAMANIAN LAW AND PRACTICE. WE ARE LOOKING INTO THE POSSIBILITY OF CONTRACTING FOR THE SERVICES OF AN INDEPENDENT PANAMANIAN ATTORNEY TO RESEARCH THESE ISSUES. IN THE MEANTIME, HOW-  
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EVER, DEPARTMENT WOULD ASK THAT THE EMBASSY DO WHAT IT CAN TO GATHER INFORMATION ALONG THESE LINES.

2. WAS THE UNCULTIVATED LAND TAX ASSESSED AGAINST BOSTON PANAMA DISCRIMINATORY? WERE OTHER LANDOWNERS TREATED IN A SIMILAR FASHION? WE KNOW FROM DOCUMENTATION SUBMITTED

BY THE COMPANY THAT LITTLE REVENUE WAS EVER COLLECTED UNDER THIS PROVISION OF THE TAX LAW. HOWEVER, WERE THERE

OTHER ASSESSMENTS UNDER THE LAW WHICH, LIKE BOSTON PANAMA'S, WERE NEVER PAID? WAS THERE OTHER LAND WHICH SHOULD HAVE BEEN TAXED AND WASN'T? DID OTHER LANDOWNERS SUBMIT SWORN STATEMENTS AS TO THE AMOUNT OF THEIR LAND WHICH WAS CULTIVATED OR UNCULTIVATED FOR PURPOSES OF ASSESSMENT OF THE TAX? (THE MINISTRY'S ORIGINAL ASSESSMENT WAS VERY HIGH BECAUSE IT CONSIDERED ALL BOSTON PANAMA'S LAND TO BE UNCULTIVATED IN THE ABSENCE OF SUCH STATEMENTS.)

3. WERE THE PROCEDURES FOLLOWED BY THE MINISTRY OF FINANCE IN EXECUTING THE TAX LIEN IN THE FALL OF 1969 SUCH THAT BOSTON PANAMA SUFFERED A DENIAL OF JUSTICE? WE UNDERSTAND THAT THE MINISTRY IGNORED LOPEZ GUEVARA'S POWER OF ATTORNEY ON BEHALF OF BOSTON PANAMA, APPOINTED ANOTHER ATTORNEY TO REPRESENT THE COMPANY IN HIS STEAD, AND FAILED TO NOTIFY LOPEZ GUEVARA OR THE COMPANY OF THE PROCEEDINGS AGAINST IT. HOW DOES THE GOP JUSTIFY HAVING EXCLUDED LOPEZ GUEVARA FROM THE HEARINGS WHICH RESULTED IN A DECISION TO EXECUTE THE LIEN THROUGH A TAX SALE AND HAVING DENIED THE COMPANY THE OPPORTUNITY TO APPOINT COUNSEL OF ITS OWN CHOOSING, IF IN FACT THERE WAS JUSTIFICATION FOR FAILING TO RECOGNIZE LOPEZ'

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STANDING?

4. HAS THE COMPANY EXHAUSTED AVAILABLE LOCAL REMEDIES? AFTER LEARNING THAT A SALE WOULD TAKE PLACE, LOPEZ GUEVARA FILED A NUMBER OF PLEADINGS WITH THE MINISTRY SEEKING TO OVERTURN THAT DECISION. THEY APPARENTLY WERE NEVER ANSWERED. HOWEVER, HE ACKNOWLEDGED AT THE TIME THAT HE WAS ADDRESSING HIS APPEALS TO THE WRONG PART OF THE MINISTRY (THEY WENT TO THE DIRECTOR GENERAL OF REVENUE INSTEAD OF THE DIVISION DE COBRO COACTIVO) AND THAT THERE EXISTED AN INDEPENDENT CIVIL REMEDY WHICH HE PREFERRED NOT TO PURSUE. ARE THERE ANY EXISTING AVENUES OF ADMINISTRATIVE OR JUDICIAL APPEAL OPEN TO THE COMPANY TODAY? VANCE

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 jan 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** TAX LAW, TRADE COMPLAINTS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 22 mar 1978  
**Decaption Date:** 01 jan 1960  
**Decaption Note:**  
**Disposition Action:** n/a  
**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
**Disposition Comment:**  
**Disposition Date:** 01 jan 1960  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
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**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** F.ARMSTRONG:JV  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Expiration:**  
**Film Number:** D780127-0340  
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**Review Event:**  
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**Review Media Identifier:**  
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**Review Transfer Date:**  
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**SAS ID:** 3233201  
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**Status:** NATIVE  
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**TAGS:** EINV, BDIS, PN, BOSTON PANAMA  
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**Review Markings:**  
Sheryl P. Walter  
Declassified/Released  
US Department of State  
EO Systematic Review  
20 Mar 2014  
**Markings:** Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014